IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 25 OF 2007

VINAYAK PADMANABH SHINKRE (DECEASED) THROUGH ITS LR'S AND 2 ORS., ...Petitioners

Versus

DEPUTY COLLECTOR AND S.D.O. AND 2 ORS., ...Respondents

Mr. M. S. Sonak, for the Petitioners.

Mr. S.S. Kantak, Ag With Ms. R. Chodankar, Aga For Respondents

Coram:- S.A.BOBDE, J.

Date:- 7th March, 2007

ORAL JUDGMENT:

Rule. Rule made returnable forthwith. Heard by consent.

2. This petition is preferred against the Order dated 31st October, 2006 by which the learned District and Sessions Judge, North Goa, Panaji has refused to condone the delay of about 2391 days in filing an application for restoring an application under Section 18 of the Land Acquisition Act which was dismissed in default. The undisputed facts are that at the instance of the petitioners a reference was made to the learned District Judge under Section 18 of the Land Acquisition Act. That reference was dismissed on 11.12.2000. Thereafter the matter was referred back to the Land Acquisition Officer.

3. Application for setting aside the dismissal was delayed and therefore the petitioners applied for condonation of that delay. The learned District Judge, not being satisfied with the reasons put forth by the petitioners for

condoning the delay, has rejected the application for condonation of delay.

4. However, Mr. Sonak, learned counsel for the petitioners points out that it is settled law that a reference under Section 18 of the Land Acquisition Act cannot be dismissed in default. This has been held by the Supreme Court in Khazan Singh (dead) by LRS v. Union of India reported in (2002) 2 SCC 242.

5. In this view of the matter, the impugned order as also the Order dated 11.12.2000 dismissing the reference in default are hereby set aside and the learned District Judge is directed to decide the Land Acquisition Case No.58/99 in accordance with law, as expeditiously as possible.

Rule disposed of.

S.A.BOBDE, J.

sl.